

Summary of U.S.-Chile FTA Exceptions Chapter

This Chapter provides for various exceptions that apply to all or large portions of the agreement. The Chapter is similar to Chapter 21 of the NAFTA.

Article 1 sets forth relevant definitions.

Article 2 incorporates by reference the general exceptions set forth in GATT Article XX and GATS Article XIV.

Article 3 allows each party to take actions to protect its essential security interests.

Article 4 provides an exception for taxation measures. In general, it provides that nothing in the agreement will affect each party's rights and obligations under any tax convention and any such convention shall prevail in the event of any inconsistency between the convention and the agreement. Article 4 sets forth certain circumstances under which taxation measures are subject to the agreement's (1) national treatment obligation on goods, (2) national treatment and most-favored-nation obligations on services and financial services, (3) prohibitions on performance requirements, and (4) expropriation rules.

Article 5 applies to balance of payments (BOP) measures imposed on trade in goods. The provision requires a Party taking such measures to conform to the balance of payment provisions set forth in GATT 1994, including related declarations and understandings. A Party applying a measure must consult immediately with the other Party, and must not impair the relative benefits accorded to the other Party under the FTA.

Article 6 permits a party to withhold information otherwise required to be disclosed to the other party where such disclosure would impede domestic law enforcement or contravene laws protecting personal privacy or financial records.